

UNITED STATES FEDERAL  
WESTERN DISTRICT COURT  
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In The Matter Of:

MARCEL PIERRE

Plaintiff,

-Against-

STATE OF NEW YORK DEPARTMENT OF  
CORRECTIONS AND COMMUNITY SUPERVISION.

CORRECTION OFFICER,  
JOHN DOE (1)

CORRECTIONAL OFFICER,  
JOHN DOE (2)

WYOMING COUNTY COMMUNITY HOSPITAL  
(WARSAW)  
DOCTOR, JOHN DOE (1)  
=====x

CIVIL COMPLAINT  
.....

DOCKET NO. 21 CV 163

DATE: ~~NOVEMBER~~ 19/2020

JURY BY DEMAND  
DEMAND: UNSPECIFIED

PLAINTIFF, MARCEL PIERRE BY WAY OF PRO'SE,  
NOW MOVES THE WESTERN DISTRICT COURT AND ALLEGES THE FOLLOWING CONSTITUTIONAL  
VIOLATIONS BROUGHT HEREIN THIS CIVIL ACTION COMPLAINT AGAINST DEFENDANTS.

1] THIS IS A CIVIL RIGHTS COMPLAINT ACTION BROUGHT PURSUANT TO AND  
UNDER 42-U.S.C. § 1983, BY THE HEREIN CAPTIONED PLAINTIFF AGAINST THE ABOVE  
NAMED DEFENDANTS, WHILST THE PLAINTIFF WAS IN THE CUSTODY OF THE STATE OF  
NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION.  
THE CLAIMS HEREIN CONSIST OF **ASSAULT, EXCESSIVE FORCE, WANTON INFLICTION  
OF PAIN**, SUCH BEING FORBIDDEN UNDER THE FOURTH, EIGHTH AND FOURTEENTH UNITED  
STATES AMENDMENTS, FURTHERMORE ANY OTHER VIOLATION THIS COURT MAY DEEM SO  
PROPER IN THE INSTANT MATTER.

JURISDICTION AND VENUE  
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2] THIS ACTION ARISES UNDER THE UNITED STATES CONSTITUTION AND IS THUS  
APPLICABLE UNDER 42-U.S.C. §§ 1983 and 1988. THE JURISDICTION OF THIS COURT  
IS PREDICATED UPON 28.U.S.C §§ 1331 and 1343(a)(3-4).

3] THE ACTS HEREIN COMPLAINED OF OCCURED IN THE WESTERN DISTRICT OF THE STATE OF NEW YORK AND VENUE IS PROPERLY VESTED IN THIS COURT OF JURISDICTION PURSUANT TO 28 U.S.C § 1391(b).

P A R T I E S T O A C T I O N

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4] MARCEL PIERRE, BEING A RESIDENT OF THE STATE OF NEW YORK COUNTY OF MONROE, AND STATE THAT I WAS INCARCERATED IN THE STATE OF NEW YORK DEPARTMENT OF CORRECTIONS SPECIFICALLY **WYOMING FACILITY** AT THE TIME OF THE INCIDENT THAT DID SO OCCUR.

5] **D E F E N D A N T**, STATE OF NEW YORK DEPARTMENT OF CORRECTIONS IS A **MUNICIPALITY** ORGANIZED UNDER AND EXISTING BY VIRTUE OF THE LAWS OF THE STATE OF NEW YORK, FURTHERMORE SAID FACILITY WAS IN THE COUNTY OF WYOMING.

6] **D E F E N D A N T**, CORRECTIONAL OFFICER JOHN DOE #(1) AT ALL RELEVANT TIMES, IS OR WAS A CORRECTIONAL OFFICER WITHIN THE STATE OF NEW YORK UNDER THE DEPARTMENT OF CORRECTIONS AND WAS FURTHER ASSIGNED TO THE WYOMING STATE CORRECTIONAL FACILITY ON THE NIGHT OF THE INCIDENT. SAID OFFICER WAS ACTING IN THE CAPACITY OF AN AGENT ASWELL EMPLOYEE OF THE STATE OF NEW YORK AND THE DEPARTMENT OF CORRECTIONS. THE HEREIN COMPLAINED ACTS WERE WITHIN THE SCOPE OF HIS EMPLOYMENT AND AS SUCH HE WAS **ACTING UNDER COLOR OF STATE LAW**. THIS DEFENDANT IS SUED IN HIS INDIVIDUAL CAPACITY.

7] **D E F E N D A N T**, CORRECTIONAL OFFICER JOHN DOE #(2) AT ALL RELEVANT TIMES, IS OR WAS A CORREC TIONAL OFFICER WITHIN THE STATE OF NEW YORK UNDER THE DEPARTMENT OF CORRECTIONS AND WAS FURTHER ASSIGNED TO THE WYOMING STATE CORRECTIONAL FACILITY ON THE NIGHT OF THE INCIDENT. SAID OFFICER WAS ACTING IN THE CAPACITY OF AN AGENT ASWELL EMPLOYEE OF THE STATE OF NEW YORK AND THE DEPARTMENT OF CORRECTIONS. THE HEREIN COMPLAINED OF ACTS WERE WITHIN THE SCOPE OF HIS EMPLOYMENT AND AS SUCH HE WAS **ACTING UNDER COLOR OF STATE LAW**. THIS DEFENDANT IS BEING SUED IN HIS INDIVIDUAL CAPACITY.

8] **D E F E N D A N T**, WYOMING COUNTY COMMUNITY HOSPITAL **"WARSAW"**, AT ALL RELEVANT TIMES HEREIN THE COMPLAINT. FURTHERMORE IS A HOSPITAL ENTITY THAT OPERATES WITHIN THE COUNTY OF WYOMING ASWELL IN THE STATE OF NEW YORK. THE DEFENDANT IN THE MATTER FURTHER TREATS PRISONERS WHOM ARE INCARCERATED WITHIN THE STATE OF NEW YORK DEPARTMENT OF CORRECTIONS.

9] **D E F E N D A N T**, IS OR WAS THE EMPLOYER THAT HIRED AND SUPERVISED THE DOCTOR THAT VIOLATED THE PLAINTIFF IN THE INSTANT MATTER, WITH CONDUCT THAT AMOUNTS TO MAL-PRACTICE, ASSUALT, MALICE, WANTON INFLECTION OF PAIN ASWELL THE DENEGRATION OF THE PLAINTIFF. THE WARSAW HOSPITAL OWNS AND ALSO OPERATES THE WARSAW HOSPITAL, AND FURTHERMORE IMPLEMENTS AND ENFORCES THE SAID POLICIES. THE DEFENDANT ALSO BEARS THE RESPONSIBILITY OF THE TRAINING AND SUPERVISING OF THE DOCTOR HEREIN THIS COMPLAINT. THROUGH THE HOSPITAL AND IMPLEMENTED POLICIES ASWELL TRAINING, INCLUDING THOSE PERTAINING TO THE INTERACTION OF MEDICAL PERSONNEL WITH PRISONERS AND PRISONERS BILL OF RIGHTS.

10] **D E F E N D A N T**, DOCTOR **John Doe** #(3) AT ALL RELEVANT TIMES HEREIN THIS COMPLAINT, WAS FURTHERMORE AN EMPLOYEE FOR THE WYOMING COUNTY COMMUNITY HOSPITAL **"WARSAW"**. THE DEFENDANT WAS ASSIGNED TO THE HOSPITAL ON THE NIGHT IN WHICH THE ACTIONS OCCURED, ASWELL THE DEFENDANT PARTICIPATED IN THE CLAIM OF THE ASSUALT AND INFLECTION OF PAIN. THIS DEFENDANT WAS ACTING UNDER THE **COLOR OF STATE LAW**, FURTHERMORE BEING AN AGENT FOR THE HOSPITAL, ACTING AS AN AGENT THERETO AND WAS ASWELL AN EMPLOYEE OF SAID HOSPITAL. THE DEFENDANT IS BEING SUED IN HIS FULL AND INDIVIDUAL CAPACITY FOR DAMAGES AS THE DEFENDANT WAS WITHIN THE SCOPE OF HIS EMPLOYMENT AND SUCH ACTING UNDER STATE LAW.

11] THIS ACTION IS BROUGHT PURSUANT TO 42-U.S.C.A §§ 1983 & 1988, THE ABOVE FOREMENTION ACT PROHIBITS THE VIOLATIONS UNDER THE DOCTRINE OF "COLOR OF STATE LAW" OF RIGHTS THAT ARE SECURED BY WAY OF THE UNITED STATES CONSTITUTION , LAWS TREATIES OF THE UNITED STATES. AT ALL RELEVANT TIMES IN THIS COMPLAINT THE DEFENDANTS ACTED UNDER THE LAWS AND TREATIES OF THE UNITED STATES ASWELL THE STATE OF NEW YORK.

**.O R D E R . . . O F . . . E V E N T S .**  
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12] ON OR ABOUT THE 18th, day of FEBRUARY, 2020, AT APPROXIMATELY 1:00am THE PLAINTIFF WAS A PRISONER IN THE STATE OF NEW YORK SPECIFICALLY THE WYOMING CORRECTIONAL FACILITY. SUCH IS RUN AND OPERATED BY THE STATE OF NEW YORK AND THE DEPARTMENT OF CORRECTIONS.

13] THE PLAINTIFF WAS HOUSED AT THE WYOMING FACILITY ON FEBRUARY 18th, IN THE YEAR OF 2020. THE PLAINTIFF WAS EXITING THE FACILITY RECREATIONAL AREA AT APPROXIMATELY 10:00pm, WHEN OFFICERS DECIDED TO RANDOMLY SELECT THE PLAINTIFF TO BE SEARCHED UPON THE RETURN TO THE HOUSING LOCATION. THE PLAINTIFF PLACED HIS HANDS ON THE WALL AND WAS PAT FRISKED ASWELL ALL THE PLAINTIFFS POCKETS WERE CHECKED. THERE WAS NO CONTRABAND DISCOVERED.

14] THE PLAINTIFF WAS THEN DIRECTED TO GO TO A STRIP FRISK ROOM AND BE STRIP FRISKED, WHEN THE PLAINTIFF COMPLAINED THAT SUCH WAS AN INTRUSION AND THAT PLAINTIFF HAD DONE NOTHING WRONG, THE OFFICERS BEGAN TO ASSUALT THE PLAINTIFF BY STRIKING PLAINTIFF IN THE FACE.

15] THE PLAINTIFF WAS ESCORTED TO THE STRIP FRISK AREA, UPON ENTERING THE STRIP FRISK AREA OFFICERS STATED TO THE PLAINTIFF, " IF YOU HAVE ANYTHING ON YOU TURN IT OVER NOW". AT THAT POINT THE PLAINTIFF STATED THAT HE MAY HAVE A "STICK" ON HIM. SUCH BEING A FORM OF MARIJUANA. THE PLAINTIFF TURNED THE CONTRABAND OVER TO THE OFFICERS CONDUCTING THE SEARCH.

16] DIRECTLY AFTER THE PLAINTIFF TURNED THE CONTRABAND OVER, THE OFFICERS IMMEDIATELY JUMPED ON THE PLAINTIFF AND SMASHED THE PLAINTIFFS HEAD INTO THE GROUND, AND CONTINUED BENDING THE PLAINTIFFS ARMS UNTIL THE PLAINTIFF COULD NO LONGER FEEL HIS ARMS. AFTER A COMPLETE STRIP FRISK OF STRIPPING THE PLAINTIFF DOWN TO NOTHING, THERE WAS NO OTHER CONTRABAND FOUND IN THE AREA OR POSSESSION OF THE PLAINTIFF.

17] THE PLAINTIFF WAS ESCORTED TO A STRIP CELL WITH NO CLOTHING AND OR RUNNING WATER AND WAS PLACED UNDER A STOOLE WATCH TO DETERMINE IF PLAINTIFF HAD CONSUMED ANY CONTROBAND. NO FURTHER CONTRABAND WAS LOCATED NOR FOUND THE PLAINTIFF HAD BEEN FORTHRIGHT WITH THE OFFICERS THAT HE HAD NO OTHER CONTRABAND UPON PLAINTIFFS PERSONS.

18] AT APPROXIMATELY ,1:00am THE PLAINTIFF WAS TAKEN BY WAY OF AMBULANCE TO THE COUNTY HOSPITAL "WARSAW", BASED UPON THE OFFICERS DIRECTION THAT PLAINTIFF HAD CONSUMED SOMETHING, HOWEVER THE PLAINTIFF HAD NOT SWALLOWED ANY FURTHER CONTRABAND AND HAD TURNED ALL CONTRABAND OVER TO THE OFFICERS. THE FACILITY MEDICAL STAFF ASWELL STATED THAT FROM THEIR VEIW PLAINTIFF HAD CONSUMED SOMETHING. THE INFIRMARY STAFF ARE NOT MEDICAL EXPERTS IN THE CONSUMPTION OF ILLEGAL CONTRABAND ITEM .

19] WHILE AT THE WARSAW HOSPITAL, THE PLAINTIFF WAS TAKEN INTO A SMALL ROOM ACCOMPANIED BY THE TWO JOHN DOE OFFICERS. SHORTLY SOMETIME AFTER BEING IN THE WAITING ROOM A NURSE CAME IN AND ASK THE PLAINTIFF IF, PLAINTIFF WAS ON ANY SUBSTANCES OR FELT ILL IN ANY MANNER THE PLAINTIFF RESPONDED NEGATIVE THE NURSE THEN PROCEEDED TO TAKE THE PLAINTIFFS VITAL SIGNS SUCH AS PULSE AND BLOOD PRESSURE ASWELL TEMPERATURE. THE PLAINTIFF WAS THEN SEEN BY A DOCTOR WHOM CAME INTO THE ROOM AND EXPRESSED THAT THE PLAINTIFF WAS THERE TO HAVE A COLON CHECK.

20] PLAINTIFF ADVISED THE DOCTOR AND THE OFFICERS THAT PLAINTIFF WAS NOT CONSENTING TO THE PROBING OF PLAINTIFFS ANAL CAVITY, PLAINTIFF FURTHER POINTED OUT TO THE DOCTOR AND THE OFFICERS THAT BODY CAVITY SEARCHES WERE IN FACT A VIOLATION OF PLAINTIFFS RELIGIOUS RIGHTS AND UNCONSTITUTIONAL. THE JOHN DOE #1 , STATED TO THE PLAINTIFF THAT "YOUR NOT REFUSING ANYTHING "SHUT THE FUCK UP YOUR STATE PROPERTY" " YOU CAN'T REFUSE NOTHING".

21] IT WAS AT THAT TIME THAT JOHN DOE #2 STATED TO THE DOCTOR "WHAT DO YOU NEED US TO DO"? THE DOCTOR THEN REPLIED ROLL HIM ON HIS SIDE AND HOLD HIM DOWN". THE PLAINTIFF BEGAN TO SQUIRM AND TRY TO PREVENT THE VIOLATION. HOWEVER IT WAS FUTILE AS THE PLAINTIFF WAS STILL IN CUFFS CHAIN AND SHACKLES, THE JOHN DOE OFFICERS #1&2, GRABBED THE PLAINTIFF BY HIS ARMS, ROLLING THE PLAINTIFF ON HIS STOMACH, WHILE ONE OF THE JOHN DOES HAD THEIR WEIGHT ON THE TOP OF THE PLAINTIFF PREVENTING THE PLAINTIFF FROM MOVING.

22] THE DOCTOR THEN STATED "DON'T WORRY YOU MIGHT EVEN LIKE THIS OPEN UP WIDE." THE DOCTOR BEGAN TO PLACE HIS FINGERS INSIDE THE PLAINTIFFS ANAL CAVITY AREA MOVING THEM AROUND STATING IN PART CAN YOU FEEL THAT ? THE PLAINTIFF WAS HUMILATED AND IN TEARS AT THIS TIME BUT THE INCIDENT CONTINUED.

23] THE DOCTOR FURTHER STATED TO THE JOHN DOE OFFICERS, "KEEP HIM (PLAINTIFF) RIGHT THERE I HAVE TO GET SOMETHING," THE DOCTOR BEGAN TO PLACE A BLUNT OBJECT INTO THE PLAINTIFFS ANAL CAVITY CAUSING SEVERE PAIN. THE PLAINTIFF SCREAMED FOR THE ABUSE TO STOP BUT IT CONTINUED AS THE DOCTOR THEN STATED " I'M DEEP ENOUGH THERES NOTHING IN THERE HE'S AS CLEAN AS A WHISTLE." THE PLAINTIFF WAS THEN PLACED INTO A CORRECTIONAL VAN AND ESCORTED TO THE SPECIAL HOUSING UNIT WHERE THE PLAINTIFF WAS LEFT WITH OUT SEEING ANY MEDICAL PERSONNEL FOR ~~SEVERAL~~ DAYS .

24] PLAINTIFF ATTEMPTED TO SEE MEDICAL PERSONNEL AND ALERT THEM THAT HE HAD BEEN EXPERIENCING BLOOD IN HIS STOOLE AND THAT PLAINTIFF WAS IN EXTREME PAIN AFTER THE INCIDENT OCCURED. THE PLAINTIFF ASWELL ATTEMPTED TO FILE GRIEVANCES IN THE MATTER BUT THE GRIEVANCES WERE ULTIMATELY LODGED UNDER A WRONG TITLE AS PLAINTIFFS COMPLAINT WAS BASED ON THE ACTIONS OF THE STAFF THAT TRANSPORTED THE PLAINTIFF TO THE HOSPITAL, JOHN DOE #1 & 2)

25] PLAINTIFF WAS ESCORTED TO THE ATTICA CORRECTIONAL FACILITY AFTER THE INCIDENT AT THE WARSAW HOSPITAL. PLAINTIFF WAS SUBJECTED TO A SHORT PERIOD OF ISOLATION IN SPECIAL HOUSING UNIT FOR THE POSSESSION OF THE CONTRABAND RETRIEVED FROM THE PLAINTIFF.

26] PLAINTIFF WAS TRANSFERED TO THE ORLEANS CORRECTIONAL FACILITY AND PLACED IN THE FACILITY SPECIAL HOUSING UNIT, AFTER COMPLETION OF THE DISCIPLINARY TERM IMPOSED. PLAINTIFF AGAIN ATTEMPTED TO UTILIZE THE STATE GRIEVANCE PROCEDURES AND ASWELL THE F.O.I.L OFFICER AT THE FACILITY IN AN ATTEMPT TO RECOVER THE NAMES AND THE RANKS OF THE OFFICERS THAT ESCORTED THE PLAINTIFF ON THE DAY IN QUESTION WHERE THE PLAINTIFFS CONSTITUTIONAL RIGHTS WERE ABROGATED AND VIOLATED.

(see Attachments in Appendix Evidence)

27] PLAINTIFF NOW SEEKS THE HEREIN CIVIL ACTION AGAINST THE TITLED AND NAMED DEFENDANTS HEREIN THIS CIVIL ACTION AGAINST AN EMPLOYEE AND OR AGENT OF THE STATE AND OR MUNICIPALITY IN CONJUNCTION TO SUCH ORDERS POLICIES AND RULES IMPLEMENTED BY SAID GATEKEEPERS AND MUNICIPAL BODY THERETO.



FIRST CLAIM FOR RELIEF PURSUANT TO 42 U.S.C §§1983 AGAINST  
DEFENDANTS THE STATE OF NEW YORK , DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION,JOHN DOE #1 JOHN DOE #2 AND DOCTOR JOHN DOE #1  
.....

- 28] PLAINTIFF REPEATS AND REALIGNS EACH AND EVERY ALLEGATION AS IF SET FORTH HEREIN THIS COMPLAINT UPON THE DEFENDANTS.
- 29] BY REASON OF THE FOREGOING AND BY THE USE OF UNNECESSARY AND THE EXCESSIVE FORCE,ASSAULT,WANTON INFLICTION OF PAIN, CRUEL AND THE UNUSUAL TREATMENT OF THE PLAINTIFF HEREIN, DEPRIVING THE PLAINTIFF OF HIS GOD GIVEN AND CONSTITUTIONAL RIGHTS OF PROTECTION FURTHER UNDER THE HUMAN RIGHTS TREATY AND LAWS, THAT ARE GUARANTEED UNTO THE PLAINTIFF PURSUANT TO 42.U.S.C §§ 1983 & 1988, INCLUDING BUT LIMITED TO, RIGHTS GUARANTEED BY THE 14th AMENDMENT OF THE UNITED STATES CONSTITUTION.
- 30] THE DEFENDANTS JOHN DOE #1 AND JOHN DOE #2, ACTED UNDER THE PRETENSE AND COLOR OF STATE LAW AND IN THEIR INDIVIDUAL AND OFFICIAL CAPACITIES AND WITHIN THE SCOPE OF THEIR EMPLOYMENT AS OFFICERS AND EMPLOYEES OF THE STATE OF NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION. THE ACTS COMPLAINED OF HEREIN THIS COMPLAINT WERE BEYOND THE SCOPE OF THE DEFENDANTS JURISDICTION, WITHOUT AUTHORITY OF LAW AND AN ABUSE OF THE POWERS GRANTED BY STATE AND FEDERAL LAWS.
- 31] THE DEFENDANTS ACTED WILLFULLY, KNOWINGLY AND WITH THE SPECIFIC INTENT TO DEPRIVE PLAINTIFF OF CONSTITUTIONAL RIGHTS SECURED UNDER 1983,U.S.C AND THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION. AND AS A DIRECT RESULT AND PROXIMATE CAUSE RESULTED IN THE UNNECESSARY EXCESSIVE AND IMPROPER TORTURE AND WANTON INFLICTION OF PAIN. THE FORCE USED BY THE DEFENDANTS IN THE MATTER WAS IMPROPER USE OF FORCE AND THE PLAINTIFF SUSTAINED THE DAMAGES HEREIN BEFORE ALLEGED.

SECOND CLAIM FOR RELIEF PURSUANT TO 42 U.S.C §1983-1988  
AGAINST DEFENDANTS STATE OF NEW YORK AND THE STATE OF  
NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY  
SUPERVISION, AND THE WARSAW HOSPITAL  
.....

- 32] PLAINTIFF REPEATS AND REALIGNS EACH AND EVERY PART OF THE HEREIN ALLEGATIONS AS IF FULLY SET FORTH. THE DEFENDANTS, THROUGH THEIR EMPLOYEES ACTED UNDER THE PRETENSE AND COLOR OF LAW. FURTHERMORE THE DEFENDANTS, PERMITTED, TOLERATED SUCH ACTS AND WAS DELIBERATELY INDIFFERENT TO THE PATTERN AND PRATICES OF THE NAMED VIOLATIONS AGAINST PRISONERS. THE WIDE SPREAD OF CORRECTIONAL OFFICER ABUSE OF PRISONERS CONSTITUTED A MUNICIPAL DEPARTMENT PRACTICE AND CUSTOM THAT LED TO THE PLAINTIFFS INJURIES AS A RESULT OF THE DEFENDANTS ACTIONS.
- 33] DEFENDANTS SUBJECTED THE PLAINTIFF TO EXCESSIVE CRUEL AND UNUSUAL WANTON INFLICTION OF PAIN AND ASSAULT, THAT WAS UNNECESSARY AND WAS FURTHER GRATUITOUS FORCE BY SUBJECTING THE PLAINTIFF TO CRUEL AND BRUTAL ASSAULT IN THE SHAPE OF SEXUAL ABUSE. THE ACTS COMPLAINED OF WERE CARRIED OUT BY THE AFOREMENTION INDIVIDUAL DEFENDANTS IN THEIR CAPACITIES AS SUPERVISORS AND IMPLEMENTING OF POLICIES. THE DEFENDANTS WERE FURTHER ACTING IN AFOREMENTION INDIVIDUAL CAPACITIES AS CORRECTIONAL OFFICERS AND AS PHYSCIAN UNDER THE LAWS OF THE STATE OF NEW YORK.
- 34] THE ACTS COMPLAINED OF WERE COMITTED AND CARRIED OUT BY INDIVIDUAL DEFENDANTS IN SUCH CAPACITIES AS CORRECTIONAL OFFICERS AND OFFICIAL PURSUANT TO THE CUSTOMS AND POLICIES, USAGES, PRACTICES, PROCEDURES, AND RULES OF THE STATE OF NEW YORK, ASWELL THE STATE OF NEW YORK DEPARTMENT OF CORRECTIONS, AND FURTHER THE WARSAW HOSPITAL. ALL UNDER THE STATE OF NEW YORK.



- 35] D E F E N D A N T S, BY AND THROUGH ITS POLICY MAKERS, CREATED AND MAINTAINED A CUSTOM, POLICY, AND OR PRACTICE OF FAILING TO ADEQUATELY TRAIN, SUPERVISE AND DISCIPLINE ITS EMPLOYEES AND ITS AGENTS, INCLUDING THE NAMED DEFENDANTS IN THIS CASE. DEFENDANTS HAD ACTUAL OR CONSTRUCTIVE NOTICE OF ITS FAILURES TO PROPERLY TRAIN AND SUPERVISE EMPLOYEES, ASWELL THE FAILURE TO NOT DISCIPLINE THE EMPLOYEES AND OR AGENTS.
- 36] IT WAS FURTHER FORESEEABLE THAT THE EMPLOYEES AND OR AGENTS WOULD CONFRONT SITUATIONS SUCH AS THE INSTANT MATTER, WHERE EMPLOYEES WOULD BE TEMPTED TO USE EXCESSIVE FORCE AND OR TEMPTED TO USE SUCH FORCE IN AN IMPROPER MANNER, AND WITHOUT THE NECESSARY TRAINING SUPERVISION AND DISCIPLINE, CONSTITUTIONAL VIOLATIONS SUCH AS THE INSTANT CLAIM WOULD ARISE AND RESULT IN THE VIOLATIONS. YET DEFENDANTS CHOSE NOT TO PROVIDE SUCH TRAINING, SUPERVISION AND OR DISCIPLINE.
- 37] DEFENDANTS FAILURE AND POOR SUPERVISION, TRAINING AND DISCIPLINE AMOUNTED TO GROSS NEGLIGENCE, DELIBERATE INDIFFERENCE, FURTHERMORE INTENTIONAL MISCONDUCT, AND ENCOURAGED OR SIMPLY PERMITTED ALLOWING THE DEFENDANTS TO ENGAGE IN SUCH CONDUCT WHICH AS A DIRECT RESULT AND PROXIMATELY DIRECTLY CAUSED THE PLAINTIFFS INJURIES AND DAMAGES SET FORTH HEREIN THIS COMPLAINT.
- 38] THE FOREGOING CUSTOMS AND POLICIES, USAGE, PRACTICES AND PROCEDURES AND RULES OF THE STATE OF NEW YORK DEPARTMENT OF CORRECTIONS AND THE STATE OF NEW YORK WARSAW COMMUNITY HOSPITAL, WERE THE MOVING FORCE BEHIND THE CONSTITUTIONAL VIOLATIONS SUFFERED BY PLAINTIFF. AS A RESULT THE PLAINTIFF WAS SUBJECTED TO EXCESSIVE FORCE. THE DEFENDANTS ACTED IN A COLLECTIVE FORCE AND INDIVIDUALLY, WHILE ACTING UNDER COLOR OF STATE LAW, ACQUIESCED IN A PATTERN OF UNCONSTITUTIONAL CONDUCT BY SUBORDINATE OFFICERS AND AGENTS AND WERE RESPONSIBLE FOR THE VIOLATION OF THE PLAINTIFFS CONSTITUTIONAL RIGHTS.

39] BY PERMITTING AND TOLERATING THE EXCESSIVE FORCE THERETO SANCTION  
OF SUCH ACTIONS KNOWING OF ITS PERSISTANCE AND WIDESPREAD POLICY  
PRACTICES AND CUSTOMS THAT LED TO THE ASSUALT UPON THE PLAINTIFF ON  
THE DAY IN QUESTION. THE DEFENDANTS DEPRIVED THE PLAINTIFF OF HIS  
CONSTITUTIONAL RIGHTS AND PRIVILAGES THAT ARE PROTECTED WITH UNITED  
STATES IMMUNITIES GUARANTEED TO THE PLAINTIFF BY WAY OF 42-U.S.C 1983  
INCLUDING BUT NOT LIMITED TO THE FOURTEENTH AMENDMENT, THE RIGHT TO  
BE FREE FROM UNECESSARY IMPROPER EXCESSIVE USE OF FORCE.

THIRD CLAIM FOR RELIEF PURSUANT TO 42-U.S.C. § 1983  
AGAINST THE NAMED DEFENDANTS IN THE CAPTION MATTER

40] PLAINTIFF REPEATS AND REALIGNS EACH AND EVERY ALLEGATION HEREIN AS SET FULLY HEREIN. THE INDIVIDUAL DEFENDANTS CONSPIRED FOR THE PURPOSE OF KEEPING THE PLAINTIFF QUIET AND THE INCIDENT CONCEALED WITHOUT FURTHER AND PROPER INVESTIGATION. THE INDIVIDUAL DEFENDANTS CONSPIRED FOR THE PURPOSES OF DEPRIVING THE PLAINTIFF OF HIS CONSTITUTIONAL RIGHTS TO BE FREE FROM HARM, EXCESSIVE ABUSE AND DELIBERATE PRACTICE THAT AMOUNT TO THE INDIFFERENCE TO THE PLAINTIFFS SAFETY AND WELLBEING.

41] DEFENDANTS SOUGHT TO SUPPRESS THE PLAINTIFF FROM FILING THE PROPER GRIEVANCES AND FURTHER THE DEFENDANTS FAILED TO PROPERLY INVESTIGATE THE PLAINTIFFS (PREA) SEX CRISIS HOTLINE COMPLAINT, ASWELL THE STATES AGENCY CONTINUES TO CONCEAL THE NAMES OF THE OFFICERS ASWELL THE NAMED DOCTOR AT THE WARSAW HOSPITAL.

42] DEFENDANTS HAD AN AFFIRMATIVE DUTY TO INTERVENE ON THE BEHALF OF THE PLAINTIFF, WHOSE CONSTITUTIONAL RIGHTS WERE BEING ABROGATED AND VIOLATED IN THEIR PRESENCE BY-CO-DEFENDANTS.

43] DEFENDANTS FAILED TO INTERVENE TO PREVENT THE UNLAWFUL CONDUCT DESCRIBED HEREIN THIS COMPLAINT, AS A DIRECT AND PROXIMATE RESULT OF DEFENDANTS MISCONDUCT AND ABUSE OF AUTHORITY,THE PLAINTIFF SUSTAINED THE FOREMENTION DAMAGES ALLEGED.

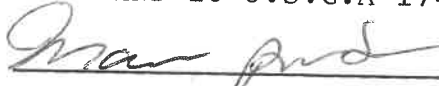
P R A Y E R . . . F O R . . . R E L I E F  
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W H E R E F O R E, PLAINTIFF RESPECTFULLY REQUEST A JUDGEMENT AGAINST ALL OF THE NAMED DEFENDANTS IN THE INSTANT ACTION LISTED IN THE CAPTION AS FOLLOWS:

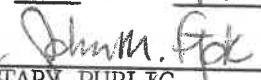
- (a) COMPENSATORY DAMAGES AGAINST ALL DEFENDANTS JOINTLY AND SEVERALLY IN THE AMOUNT OF [ FOUR MILLION DOLLARS ] \$4,000,000.00
- (b) PUNITIVE DAMAGES AGAINST THE INDIVIDUAL DEFENDANT JOINTLY AND SEVERALLY IN THE AMOUNT OF [ FOUR MILLION DOLLARS ] \$4,000,000.00
- (c) SUCH OTHER RELIEF THIS COURT DEEM JUST AND PROPER.

DATE: 11-24-20

SWORN TO BE THE TRUTH UNDER  
OATH AND 28-U.S.C.A 1746

  
MARCEL PIERRE

SWORN TO BEFORE ME,  
THIS 24 DAY OF November 20 20

  
NOTARY PUBLIC

JOHN M. FITZAK  
Notary Public - State of New York  
No. 01FI6026303  
Qualified in Orleans County  
My Commission Expires June 14, 20 23



P L A I N T I F F S      E X H A U S T I O N  
A P P E N D I X  
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- # 1] COPY OF ORIGINAL GRIEVANCE FILED, BY PLAINTIFF..
- # 2] DETERMINATION MADE BY GRIEVANCE RESOLUTION COMMITTEE DENYING PLAINTIFF ANY RELIEF REQUESTED.
- # 3] PLAINTIFFS APPEAL OF THE GRIEVANCE DETERMINATION TO CENTRAL OFFICE WAS DELIVERED AND MAILED ON OR ABOUT IN MARCH/APRIL.
- # 4] PLAINTIFF WAS INTERVIEWED IN THE MONTH OF MARCH BY THE STATES SEXUAL MISCONDUCT " PREA" HOTLINE, NO DETERMINATION OR RESULT OF ACTIONS.
- # 5] PLAINTIFFS REFILED GRIEVANCES ON OR ABOUT IN OCTOBER 2020 , FURTHER STATING CAUSE FOR THE LATE ATTEMPT, BEING STAFF CONDUCT. PLAINTIFF MAKES FURTHER REQUEST THROUGH THE F.O.I.L ACT TO OBTAIN JOHM DOE INFORMATION STATE REFUSES TO ACCOMIDATE AND RELEASE INFORMATION.

STATE OF NEW YORK  
DEPARTMENT OF CORRECTIONS  
AND COMMUNITY SUPERVISION.

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O F F E N D E R      G R I E V A N C E

G R I E V A N C E    C O D E    # \_\_\_\_\_

DATE: OCTOBER 20th, 2020

F A C I L I T Y :    O R L E A N S

COMPLAINANT NAME: Mr. **MARCEL PIERRE**  
OFFENDER IDENTIFICATION # **19-B-2321**  
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N A T U R E    O F      C O M P L I N T  
STAFF MISCONDUCT  
ASSAULT  
NEGLIGENCE  
\*\*\*\*\*

H I S T O R Y    O F    C O M P L A I N T  
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THE INSTANT GRIEVANCE IS BELIED UPON A PRIOR GRIEVANCE THAT WAS FILED BY THE GRIEVANT ON OR ABOUT **MARCH 1st, 2020**. THE PRIOR GRIEVANCE COMPLAINED OF AN INCIDENT THAT OCCURED ON OR ABOUT **FEBRUARY 18th, 2020**. THE GRIEVANT FILED ANOTHER GRIEVANCE IN CONNECTION WITH THE ORIGINAL FILED GRIEVANCE ON **MARCH 4th, 2020**. IN PART THE GRIEVANCES WERE MISREPRESENTED AND IMPROPERLY FILED UNDER CODE# 22. IN RESPECT TO THE GRIEVANCES IT DID NOT REVOLVE AROUND AN AGENCY THAT WAS OUTSIDE OF THE DEPARTMENT OF CORR, AND COMMUNITY SUPPERVISION. IN FACT THE COMPLAINT STEMMED FROM THE ACTUAL DEPARTMENT OF CORRECTIONAL STAFF, SPECIFICALLY CORRECTIONAL OFFICERS THAT ESCORTED THE GRIEVANT TO THE HOSPITAL FOR THEIR ACTIONS.

F A C T S    O F    G R I E V A N C E  
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**FEBRUARY 18th/2020** GRIEVANT WAS ESCORTED TO WARSAW (sic) HOSPITAL BY AMBULANCE AND ESCORTED BY **TWO CORRECTIONAL OFFICERS**, (JOHN DOE 1 and 2) UPON THE ARRIVAL AT THE HOSPITAL THE GRIEVANT WAS TOLD THAT A MEDICAL PROCEDURE WAS GOING TO BE PERFORMED ON GRIEVANT. THE GRIEVANT STATED THAT " HE REFUSED ANY TREATMENT OR PROCEDURE ". THE CORRECTIONAL OFFICERS RESPONDED TO THE GRIEVANT, " YOUR NOT REFUSING ANYTHING YOU ARE STATE PROPERTY".



S T A F F     M I S C O N D U C T  
                  A S S A U L T  
                  N E G L I G E N C E  
.....


AFTER THE GRIEVANT AVERED THAT GRIEVANT WAS NOT SUBMITTING NOR WAS GRIEVANT CONSENTING TO THE PROCEDURE CONSISTING OF AN ANAL PROBE OF THE GRIEVANT. THE INCIDENT OCCURED AS FOLLOWS; THE TWO UNIDENTIFIED CORRECTION OFFICERS PHYSICALLY HELD THE GRIEVANT DOWN WHILE THE GRIEVANT WAS CHAINED CUFFED AND SHACKLED, AND SUCH ALLOWED THE PHYSICIAN OR DOCTOR TO VIOLATE THE GRIEVANTS CONSTITUTIONAL RIGHTS, BY PROBING THE ANAL AREA OF THE GRIEVANT WITH FINGERS AND SOME FORM OF A MEDICAL DEVICE. THE GRIEVANT ATTEMPTED TO PREVENT THE PROBING BY SQUIRMING AND KICKING BUT SUCH WAS FUTILE.

R E L I E F     S O U G H T  
.....

GRIEVANT REQUEST THE NAMES AND RANKS OF THE CORRECTIONAL OFFICERS THAT ESCORTED THE GRIEVANT TO THE HOSPITAL. FURTHERMORE THE GRIEVANT ALSO REQUEST THAT THE JOHN DOE OFFICERS AFTER THE DETERMINATION OF THEIR IDENTITY BE SANCTIONED AND REPRIMANDED FOR THEIR ACTIONS ASWELL SUSPENDED AND OR RELIEVED OF EMPLOYMENT UNDER THE STATE OF NEW YORK DEPARTMENT OF CORRECTION. THE GRIEVANT REQUEST TO BE PROVIDED WITH THE NAMES OF THE TWO OFFICERS THAT ESCORTED AND ILLEGALLY RESTRAINED THE GRIEVANT.

Date: 10/21/20

THIS COMPLAINT IS SWORN TO  
UNDER PENALTY AND FURTHER  
KNOWING OF FALSE STATEMENT  
PURSUANT TO § 28-U.S.C.A 1746



MR . MARCEL PIERRE  
19-B-2321

Attached  
Original complaint.

F O I L R E Q U E S T

.....

NAME: MR. MARCEL PIERRE #19-B-2321

LOCATION: ORLEANS E-1- b

FACILITY: O.C.F NEW YORK

DATE: OCTOBER 21/2020

PLEASE BE SO ADVISED ,

THAT THE ABOVE NAMED PERSON MAKES THIS FOIL REQUEST FOR THE FOLLOWING INFORMATION BASED ON THE FOIL REQUEST HEREIN, THIS REQUEST IS MADE PURSUANT TO §§ 84 to 90 UNDER THE PUBLIC OFFICERS LAW.

ASWELL THE SUBSCRIBER QUALIFIES FOR THE REDUCED FEE OF RESEARCH AND OR PHOTO COPYING IN THE REQUEST AND SEARCH FOR THE BELOW INFORMATION.

§§ 13:66 ALLOWS FOR THE FOLLOWING INFORMATION TO BE RELEASED TO THE HEREIN

SUBSCRIBER FOR THE USE OF LEGAL PROPRIETY AND CIVIL LITIGATION ANY HINDERING IN THE FINDING AND OR DENIAL OF INFORMATION THAT IS NOT EXEMPT FROM THE QUALIFICATIONS OF THE FOIL ACT. MAY BE PUNISHABLE BY LAW. THEREFORE FOLLOWED BY N.Y PUB.OFF.LAW § 87(2).

THE FOIL OFFICER SHALL HAVE **FIVE BUISNESS DAYS** IN WHICH TO RESPOND TO THE HEREIN REQUESTED INFORMATION.

R.E.Q.U.E.S.T.E.D.....I.N.F.O.R.M.A.T.I.O.N

THIS REQUESTER REQUEST THE NAMES AND RANKS OF THE OFFICERS THAT ESCORTED THIS REQUESTER TO THE HOSPITAL ON OR ABOUT THE 18th,DAY OF FEBRUARY,2020 TO THE HOSPITAL AT APPROXIMATELY 1:00am FROM THE WYOMING CORRECTIONAL FACILITY THIS REQUESTER BELIEVES THAT THE HOSPITAL WAS WARSAW. FURTHERMORE IN THIS REQUEST THE AFFIRMATION OF THE HOSPITAL THE REQUESTER WAS TAKEN TO. THIS INFORMATION IS NOT REQUESTED FOR ANY OTHER INDIVIDUAL IT IS SOLEY REQUESTED FOR THE UNDERSIGNED REQUESTER.

REQUESTER OF INFORMATION,  
UNDERSIGNED.

  
MR. MARCEL PIERRE  
19-B-2321

DATE: 10/21/2020

O R L E A N S  
C O R R E C T I O N A L F A C I L I T Y  
3531-GAINES BASIN ROAD  
ALBION, NEW YORK, 14411-9199  
.....

FOIL REQUEST  
=====

NAME: MR. MARCEL PIERRE

DIN #19-B-2321

FACILITY: ORLEANS

DATE: OCTOBER 21st/2020

P L E A S E   B E   A D V I S E D,  
THAT PURSUANT TO THE FOIL ACT FREEDOM OF INFORMATION ACT, (5)U.S.C, SECTION 552) ASWELL THE PRIVACY ACT OF (5.U.S.C. SECTION 552(a), and MCKINNEY'S PUBLIC LAW, SECTION §§ 84-through-90.

THE ABOVE REQUESTER THROUGH WAY OF THE PUBLIC OFFICER HERE AT THE ORLEANS CORRECTIONAL FACILITY RESPECTFULLY REQUEST THE FOLLOWING INFORMATION PERTAINING TO THE BELOW LISTED WITH RESPECT TO INFORMATION.  
FURTHERMORE THE FOIL OFFICER OF PUBLIC RECORDS AT THE ORLEANS FACILITY SHALL HAVE FIVE BUSINESS DAYS IN WHICH TO RESPOND BY NOTIFICATION OF THE HEREIN REQUEST.

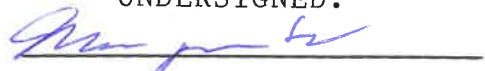
IT SHALL BE FURTHER NOTICED THAT THE REQUESTER WHOM IS INCARCERATED QUALIFIES FOR REDUCED FINDING FEE ASWELL REPRODUCTION FEE.  
THE REQUESTER FURTHER STATES THAT THE INFORMATION HEREIN REQUESTED IS FOR THE PURPOSE AND USE ONLY BY THIS REQUESTER AND THAT NO OTHER PARTY HAS ANY INTEREST IN THE MATTER.

R E Q U E S T E D   I N F O R M A T I O N

- #1] THE NAMES AND RANKS OF THE CORRECTIONAL OFFICERS THAT ESCORTED THIS REQUESTER ON MEDICAL TRIP ON OR ABOUT FEBRUARY 18th/2020 FROM THE WYOMING CORRECTIONAL FACILITY TO "WARSAW", LOCATED AT WYOMING COUNTY COMMUNITY HOSPITAL, 400-N.MAIN STREET. WARSAW N.Y 14569-1025.
- #2] NAME OF AMBULANCE SERVICE THAT TRANSPORTED THIS REQUESTER TO THE "WARSAW" HOSPITAL ON THE 18th OF FEBRUARY/2020.

REQUESTER OF INFORMATION,  
UNDERSIGNED.

DATE: 10/21/2020

  
MR. MARCEL PIERRE

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION  
ORLEANS CORRECTIONAL FACILITY  
MEMORANDUM

TO: PIERRE Marlet DIN: 19B2321 LOC: F-1-44B DATE: 10/22/2020  
 FROM: SORC Meeder SUBJECT: FOIL ACKNOWLEDGEMENT FOIL LOG #: ORL- 20 - 208

DATE RECEIVED: 10/22/2020

\_\_\_\_\_ Your request for record(s) has been forwarded to \_\_\_\_\_ to determine record availability. You may expect a response within 20 days of the date of this letter unless otherwise notified in writing.

\_\_\_\_\_ Requested record(s) have been located. In order to proceed with your request, you will need to provide a disbursement form (#2706) for \$ \_\_\_\_\_ for \_\_\_\_\_ pages to the **Attention of the FOIL Officer**. Reference should be made to the FOIL Log # on disbursement form. Copying cost is \$.25/page. Current Departmental Policy does **NOT** authorize the advancement of funds to fulfill a FOIL request.

X \_\_\_\_\_ The requested record(s) do not exist. FOIL guidelines do not require that a record(s) be created to satisfy a request.

\_\_\_\_\_ Your request is denied or redacted pursuant to:

- \_\_\_\_\_ POL §(2)(a): Records are specifically exempt from disclosure by state or federal statute
- \_\_\_\_\_ POL §(2)(b): If disclosed, would constitute an invasion of personal privacy
- \_\_\_\_\_ POL §(2)(c): If disclosed, would impair present or imminent contract awards
- \_\_\_\_\_ POL §(2)(d): If disclosed, would cause substantial injury to the competitive position of the enterprise
- \_\_\_\_\_ POL §(2)(e): If disclosed, would interfere with law enforcement investigation
- \_\_\_\_\_ POL §(2)(f): If disclosed, could endanger the life or safety of any person
- \_\_\_\_\_ POL §(2)(g): Where records are inter-agency or intra-agency materials which are not statistical or factual tabulations, or external audits
- \_\_\_\_\_ POL §(2)(i): If disclosed, would jeopardize the capacity of an agencies electronic information system or infrastructure
- \_\_\_\_\_ POL §(95)(6)(c): Inmate records that are evaluative in nature

\_\_\_\_\_ Request for Medical Record(s) are to be directed to the Nurse Administrator. Your request has been forwarded to their attention.

\_\_\_\_\_ Requests for Mental Health Record(s) are to be directed to Central New York Psychiatric Center; PO Box 300, Marcy NY 13403-0300.

\_\_\_\_\_ RAP sheets are exempt from disclosure. Refer to Executive Law §837 (8) and 9 NYCRR 6051.1. You may request a copy from the Division of Criminal Justices Services; Records Retention Unit; 80 South Swan Street, Albany, New York 12210. Transitional Services may also assist you in obtaining a copy of your RAP Sheet.

\_\_\_\_\_ Pre-Sentence Reports are exempt from release with the following exception. In accordance with CPL §390.50, the Court shall make a copy of the presentence report available to an offender if **ONE** of following criteria applies. (1) Must have a Parole Board release interview scheduled to occur within the next six months; or (2) Filed or intends to file an administrative appeal of the most recent denial of parole. Requests must be directed to your assigned Offender Rehabilitation Coordinator for completion of Form #8370CS "Request for County Presentence Report," or "Order Granting the Disclosure of a Presentence Report". Refer to Departmental Directive 8370.

X Other: Questions are not foil requests

You may appeal any denials or deletions by writing to FOIL Appeals - Office of Counsel, Department of Corrections and Community Supervision, 1220 Washington Ave., Albany, New York 12226. The written appeal must (1) identify the record(s) you have been denied, (2) give date and location of your original request with reference of assigned FOIL Log Number, and (3) give your name and address.



**Commission of  
Correction**

**ALLEN RILEY**  
Chairman

**THOMAS J. LOUGHREN**  
Commissioner

July 1, 2020

Mr. Marcel Pierre  
DIN # 19B2321  
Orleans Correctional Facility  
3531 Gaines Basin Road  
Albion, New York 14411-9199

Dear Mr. Pierre:

This in response to your letter dated and received by the Commission on May 29, 2020.

Please be advised that it is not the intent of the Commission to circumvent the Department's grievance process. As such, it is suggested that you file a grievance (Inmate Grievance Form # 2131) with the Inmate Grievance Resolution Committee. You can contact an IGRC clerk to file a grievance and receive more information on the grievance process.

Please be advised that in the future, you exhaust all remedies of redress available to you at the facility level, as well as the New York State Department of Corrections and Community Supervision's level. However, if you continue to encounter any problems, you should direct your concerns to:

Acting Commissioner Anthony Annucci  
NYS Department of Corrections and Community Supervision  
Building 9, State Campus  
Albany, New York 12226

Sincerely,

Bureau of Field Operations  
NYS Commission of Correction

Appeal

Grievance ORI-0041-20

5/25/20

From: MARCEL Pierre 15B2321

Cell location 8C2-39b

I filed a grievance on 3/1/20  
and it was Denied on 3/4/20. ~~I~~  
appealed to Superintendent on 3/4/20  
but i never recieved a response. It's been  
well over 60 Days. I would like to appeal  
to the next level because I don't agree  
with the decision.



C.C. file

Orleans Correctional Facility



## F.O.I.L. Request

Request for access to departmental  
in accordance Departmental Directive #2010

TO: Medical

Date: 3/19/20

from: Marcel Pierre Din: 15B2321 Cell 1061544 - CI-ST

I, Marcel Pierre 15B2321, make the following request to: review the records/information outlined below. I assert that the information requested either pertains to me exclusively or such information is a general record and the viewing of such would not constitute a breach of any others personal privacy. In the event that photo-copies must be made of the information requested, I understand that I may be charged 25¢ per page copied [Dir. 2010, Part EC1]. Public Officer's Law and Departmental Directive #2010-V(A) require that, within five days of receipt of this request the record will be made available, a written response will be given notifying applicant of the date and time such record may be made available for viewing, or a detailed reason for the denial of the request will be issued.

I would like to review/examine the following record(s): I want to review my medical file.

C.C. File  
Orleans Correctional Facility Medical

ORL-0061-20

## GRIEVANCE DISMISSED AND CLOSED

### Response of IGRC:

After review and consideration, the IGRC dismisses and closes this grievance in accordance with Directive #4040, Section 701.5 (b), (4), (i), (d), and Section 701.3 (f) as the grievant is seeking action with respect to any policy, regulations, rule, or action of an agency not under the supervision of the Commissioner of Corrections and Community Supervision. In accordance with Directive #4040, Section 701.5 (b), (4), (iii), if the grievant believes that the dismissal is not authorized by the Directive, they may apply to the IGP Supervisor for review within seven calendar days after receipt of the IGRC's decision to dismiss the grievance.

Date Returned to Inmate MAR 04 2020 IGRC Members






Chairperson



Return within 7 calendar days and check appropriate boxes.\*

☐ I disagree with IGRC response and wish to appeal to the Superintendent.

☐ I have reviewed deadlocked response Pass-Thru to Superintendent

☐ I agree with IGRC response and wish to appeal to the Superintendent.

☐ I apply to the IGP Supervisor for review of dismissal

Signed

Grievant

Date

Grievance Clerk

Date

To be completed by Grievance Clerk.

Grievance Appealed to the Superintendent

Grievance forwarded to the Superintendent for action

\* An exception to the time limit may be requested under Directive #4040, section 701.6(g).

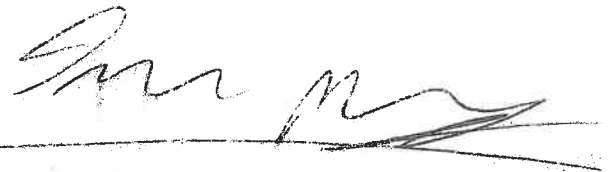
3/4/20

Prea

From MARCEL Pierre 1982321

cell location? SHU - C1 - 5T

On 2/18/20 approximately 1am I was transported from Wyoming Correctional facility to a hospital which I believe was Warsaw but im not sure. Upon leaving the facility I was transported by ambulance and followed by Correction officers. Upon admission into hospital I was taken to a room and vitals taken. After waiting with officers in room I was seen by nurse then doctor. I was told I was going to have a colon check and cat scan. I told doctor and officers that I refuse and I give no permission to perform any medical procedures on me and I would sign necessary paperwork at which time I was told I cant refuse in new York State property. They then rolled me on my side held me down and the doctor stuck his finger in my anus and also some type of camera or foreign object. I kicked and screamed stop but they didn't. At no time did I authorize this treatment. After this I received a cat scan and was transported to another Correctional facility and placed on medical watch. I am traumatized by these events.


C.C. Pfile  
Prea

GRIEVANCE DATE:MARCH 1st/2020

CELL LOCATION Shu-C1-5T

O F F E N D E R     G R I E V A N C E

=====

ON 2/18/20 APPROXIMATELEY 1:00am, I WAS TRANSPORTED FROM WYOMING FAC. TO THE HOSPITAL WHICH I BELIEVE WAS "WARSAW" BUT I'M NOT SURE. UPON LEAVING THE FACILITY I WAS TRANSPORTED BY AMBULANCE AND FOLLOWED BY A VAN WITH TWO CORRECTIONAL OFFICERS.

UPON ADMISSION INTO THE HOSPITAL I WAS TAKEN TO A ROOM AND MY VITALS WERE TAKEN, AFTER WAITING WITH THE OFFICERS IN A ROOM I WAS SEEN BY A DOCTOR. I WAS TOLD I WAS GOING TO HAVE A COLON CHECK AND CAT-SCAN.

I THEN TOLD THE DOCTOR AND OFFICERS THAT I REFUSE, AND I GIVE **NO** PERMISSION TO PERFORM ANY MEDICAL PROCEDURES ON ME AND I WOULD SIGN THE NECESSARY PAPER WORK REFUSING MEDICAL TREATMENT IF NEEDED.

I WAS THEN TOLD BY THE **OFFICERS** " THAT YOU CAN'T REFUSE IN NEW YORK YOU ARE STATE PROPERTY". I WAS THEN PHYSICALLY GRABBED AND ROLLED ON TO MY SIDE BY THE OFFICERS, AND THE DOCTOR STUCK HIS FINGERS UP MY ANAL AREA AND ALSO SOME TYPE OF CAMERA OR FOREIGN OBJECT.

I KICKED AND SCREAMED STOP BUT THEY DID'NT STOP. AT NO TIME DID I AUTHORIZE THIS TREATMENT. AFTER I WAS VIOLATED I WAS FURTHER GIVEN A CAT-SCAN, AND WAS TRANSPORTED TO THE ATTICA FACILITY BY THE OFFICERS, WHO HELD ME DOWN IN THE HOSPITAL. UPON ARRIVAL AT THE ATTICA FACILITY I WAS PLACED ON MEDICAL WATCH. I **WOULD LIKE TO FIND OUT THE NAMES OF THE OFFICERS** ASWELL THE DOCTORS THAT PERFORMED THE PROCEDURE.

GRIEVANT SIGNATURE



MR. MARCEL PIERRE

cc. File

Orleans Correctional Facility

Grievance

From: Marcel Pierre #19-B-2321

3/1/20

Cell location SHU - C1-5T(2) medical treatment - hospital  
treat outside hospital

On 2/18/20 approximately 1am I was transported from Wyoming Correctional Facility to a hospital which I believe was Warsaw but I'm not sure. Upon leaving the facility I was transported by ambulance and followed by correction officers. Upon admission into hospital I was taken to a room and vitals taken. After waiting with officers in room I was seen by a nurse then doctor. I was told I was going to have a colon check and a scan. I told doctor and officers that I refuse and I give no permission to perform any medical procedures on me and I would sign necessary paperwork at which time I was told I can't refuse in New York State property. They then rolled me on my side and laid me down and the doctor stuck his finger in my anus and also some type of camera or foreign object. I kicked and screamed stop but they didn't. At no time did I authorize this treatment. After this I received a scan and was transported to another correctional facility and placed on medical watch. I would like to see all our officers names as well as doctors and have them fired.

C.C. File

on leave correctional grievance



UNITED STATES DISTRICT COURT  
FEDERAL DISTRICT OF NEW YORK STATE

=====X

C E R T I F I C A T E O F  
S E R V I C E \*

CIVIL ACTION NO: \_\_\_\_\_

CV# \_\_\_\_\_

PLAINTIFF, MARCEL PIERRE #19-B-2321

-Against-

DEFENDANTS, STATE OF NEW YORK DEPARTMENT  
OF CORRECTIONS AND COMMUNITY SUPERVISION,  
ET.AL (JOHN DOES #1-3)

=====X

I MARCEL PIERRE CERTIFY THAT ON THIS 19 day OF NOVEMBER  
IN THE YEAR OF 2020.

I did place in a sealed ENVELOPE THE EXACT CONTENTS OF THE CIVIL ACTION  
AND ALL ATTACHED PAPERS THERETO UPON THE DEFENDANTS BY WAY OF THE UNITED  
STATES POSTAL SERVICE AND THE FACILITY LEGAL MAIL PROCESS.

#1] CIVIL COMPLAINT/ APPLICATION FOR POOR PERSON RELIEF/VERIFICATION  
AFFIDAVIT/CERTIFICATION OF SERVICE/ APPENDIX.

P A R T I E S S E R V E D,

(a) STATE OF NEW YORK

ATTORNEY GENERAL Hon. LETITIA JAMES  
THE CAPITOL, ALBANY, N.Y 12224-0341

(b) CLERK OF THE COURT

UNITED STATES DISTRICT COURT[  
2- NIAGRA SQUARE  
BUFFALO, N.Y 142020-3328

SWORN TO BEFORE ME,  
THIS 24 DAY OF November 20 20

John M. Fitzak  
\_\_\_\_\_  
N O T A R Y P U B L I C

JOHN M. FITZAK  
Notary Public - State of New York  
No. 01F16026303  
Qualified in Orleans County  
My Commission Expires June 14, 2023

SWORN TO PURSUANT  
§ 28-U.S.C.A 1746

Marcel Pierre  
\_\_\_\_\_  
PLAINTIFF,  
MARCEL PIERRE 19-B-2321



MARCEL PIERRE #19-B-2321  
**ORLEANS CORRECTIONAL FACILITY**  
 3531 GAINES BASIN ROAD  
 ALBION, NEW YORK 14411-9199



TO: UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK STATE  
2-NIAGARA SQUARE  
BUFFALO, NEW YORK 14202-3328

CORRECTIONAL FACILITY



NEOPOST  
01/25/2021  
US POSTAGE \$002  
ZIP 041M1

**LEGAL MAIL**



## CIVIL COVER SHEET

21 CV 163

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Marcel Pierre # 19B2321

(b) County of Residence of First Listed Plaintiff **Orleans**  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Pro Se

## DEFENDANTS

State of NY Department of Corrections and Community Supervision, et al

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability		<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<b>LABOR</b>	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<b>IMMIGRATION</b>	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment			<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 448 Education			
	<b>PRISONER PETITIONS</b>			
	<b>Habeas Corpus:</b>			
	<input type="checkbox"/> 463 Alien Detainee			
	<input type="checkbox"/> 510 Motions to Vacate Sentence			
	<input type="checkbox"/> 530 General			
	<input type="checkbox"/> 535 Death Penalty			
	<b>Other:</b>			
	<input type="checkbox"/> 540 Mandamus & Other			
	<input checked="" type="checkbox"/> 550 Civil Rights			
	<input type="checkbox"/> 555 Prison Condition			
	<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

## VI. CAUSE OF ACTION

Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

## DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

## FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE